

**ASAS KEADILAN PELAKSANAAN KLAUSULA *PARATE EXECUTIE*
BAGI KREDITOR SEPARATIS
(Studi Putusan MA Nomor 805 K/Pdt.Sus-Pailit/2021)**

ABSTRAK

Kepailitan adalah sita umum atas semua kekayaan Debitor Pailit yang pengurusan dan pemberesannya dilakukan oleh Kurator di bawah pengawasan Hakim Pengawas. Kreditor separatis sebagai pemegang hak jaminan kebendaan memiliki keistimewaan terhadap kreditor lainnya. Hak tersebut berupa eksekutorial terhadap harta debitor seolah-olah tidak terjadi kepailitan. Dalam keadaan debitor pailit maka kreditor separatis harus tunduk pada peraturan perundang-undangan Kepailitan dan Penundaan Kewajiban Pembayaran Utang. Timbul permasalahan ketika kreditor separatis memaknai pasal-pasal tersebut berbeda dengan Kurator dan pihak-pihak berwenang lainnya. Metode penelitian yang digunakan dalam penelitian ini adalah metode penelitian yuridis normatif. Adapun hasil penelitian ini menekankan pentingnya keseimbangan antara hak kreditor dan perlindungan hukum bagi debitor dan kreditor lainnya, serta peran kurator dalam memastikan proses eksekusi berjalan adil dan efisien. Putusan Mahkamah Konstitusi No. 18/PUU-XVII/2019 menjadi landasan penting dalam memahami bagaimana pelaksanaan klausula *parate executie* mampu menciptakan keadilan untuk semua pihak yang terkait.

Kata Kunci: *Asas Keadilan, Parate Executie, Kreditor Separatis, Kepailitan.*

**THE PRINCIPLE OF JUSTICE IN THE IMPLEMENTATION OF THE
PARATE EXECUTIE CLAUSE FOR SEPARATIST CREDITORS
(Study of Supreme Court Decision Number 805 K/Pdt.Sus-Pailit/2021)**

ABSTRACT

Bankruptcy is a general confiscation of all assets of the Bankrupt Debtor whose management and settlement is carried out by the Curator under the supervision of the Supervisory Judge. Separatist creditors as holders of property security rights have privileges over other creditors. The right is in the form of executorial against the debtor's assets as if no bankruptcy had occurred. In the event of a debtor's bankruptcy, the separatist creditor must comply with the Bankruptcy and Suspension of Debt Payment Obligations laws and regulations. Problems arise when the separatist creditor interprets these articles differently from the Curator and other authorized parties. The research method used in this research is normative juridical research method. The results of this study emphasize the importance of balance between creditors' rights and legal protection for debtors and other creditors, as well as the role of the curator in ensuring the execution process runs fairly and efficiently. The Constitutional Court Decision No. 18/PUU-XVII/2019 is an important foundation in understanding how the implementation of the parate executie clause can create justice for all parties involved.

Keywords: Principles of Justice, Parate Executie, Separate Creditors, Bankruptcy.